

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 00-1137

Released: May 25, 2000

**Iowa Utilities Board
Files Petition for Waiver of 47 C.F.R. § 51.507(f)**

**Pleading Cycle Established
CCB/CPD NO. 00-15**

Comment Deadline: June 5, 2000

Reply Deadline: June 12, 2000

The Iowa Utilities Board filed a petition on April 26, 2000, seeking a limited waiver until December 31, 2000, of section 51.507(f) of the Commission's rules so that it may complete a proceeding regarding the deaveraging of unbundled network element (UNE) rates. The Utilities Board supplemented that petition on May 19, 2000. Section 51.507(f) requires state commissions to establish at least three deaveraged rate zones for the pricing of UNEs.¹

The Federal Communications Commission promulgated section 51.507(f), along with other local pricing rules, in the August 1996 *Local Competition Order*.² Starting in September 1996, the U.S. Court of Appeals for the Eighth Circuit stayed and then vacated the Commission's local pricing rules, including section 51.507(f), on the grounds that the Commission lacked jurisdiction over local pricing.³ On January 25, 1999, however, the U.S. Supreme Court reversed the Eighth Circuit's decision with regard to the Commission's local pricing authority.⁴ Because the section 251 pricing rules had not been in force for more than two years, the Commission delayed the effectiveness of section 51.507(f) until May 1, 2000, so that states would have time

¹ See 47 C.F.R. 507(e).

² See *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Report and Order*, 11 FCC Rcd. 15499 (1996).

³ *Iowa Utilities Board v. FCC*, 96 F. 3d 1116 (8th Cir. 1996) (per curium) (temporarily staying the *Local Competition Order* until the filing of the court's order resolving the petitioners' motion for stay); *Iowa Utilities Board v. FCC*, 109 F.3d 418 (8th Cir.) (dissolving temporary stay and granting petitioners' motion for stay, pending a final decision on the merits of the appeal), *motion to vacate stay denied*, 117 S. Ct. 429 (1996); *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997) (vacating the Commission's pricing and combination rules).

⁴ *AT&T v. Iowa Utilities Board*, 119 S. Ct. 721, 733, 738 (1999).

to comply.⁵ The Common Carrier Bureau released an order April 28, 2000, granting the Public Service Commission of the District of Columbia a permanent waiver of section 51.507(f), and seven state commissions temporary waivers until October 31, 2000.⁶

The Iowa Utilities Board petition and supplement are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. The documents may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, telephone 202-857-3800, facsimile 202-857-3805. These documents also are available on the Commission's Electronic Comment Filing System (ECFS) at <<http://www.fcc.gov/e-file/ecfs.html>> in CC Docket No. 96-98.

Interested parties may file comments on the petition no later than June 5, 2000, with the Secretary, FCC, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554. Interested parties may file replies no later than June 12, 2000. The filing date of pleadings is the date of receipt. See 47 C.F.R. § 1.7. When filing pleadings, please reference the internal file number: CCB/CPD 00-15. Pleadings must also be served on the petitioner in accordance with the provisions of 47 C.F.R. §§ 1.47. In addition, one copy of each pleading must be sent to: Neil Fried, Competitive Pricing Division, 445 12th Street, S.W., 5-B431, Washington, D.C. 20554; Wanda Harris, Competitive Pricing Division, 445 12th Street, S.W., 5-A452; and ITS, the Commission's duplicating contractor, at its office at 1231 20th Street, N.W., Washington, D.C. 20036. Copies of filings are available for inspection and copying during normal business hours in FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. Copies also can be obtained from ITS at 1231 20th Street, NW, Washington, DC 20036, telephone 202-857-3800, facsimile 202-857-3805.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

For further information, contact Neil Fried, at (202) 418-1530 (voice) or (202) 418-0484 (TTY).

Action by the Chief, Competitive Pricing Division, Common Carrier Bureau, FCC.

⁵ See *In re* Deaveraged Rate Zones for Unbundled Network Elements, CC Docket No. 96-98, *Stay Order*, 14 FCC Rcd. 8300, 8300-01 (1999); *In re* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Ninth Report & Order and Eighteenth Order on Reconsideration, 14 FCC Rcd. 20432, 20492-93 (1999).

⁶ See *In re* Petitions for Waiver of the Section 51.507(f) UNE Deaveraging Requirement, CCB/CPD Nos. 00-07 – 00-14, *Order*, DA 00-956 (rel. April 28, 2000).